

REMARKS

The above amendments and following remarks are submitted in response to the official action of the Examiner (i.e., Paper No. 9) mailed June 22, 2004. This amendment is deemed to fully respond to all objections and rejections of the Examiner. Thus, claims 1-20, being all pending claims, are now expected to be in condition for allowance. Entry of this amendment and reconsideration to that end is respectfully requested.

The Examiner has objected to claim 4 for stating "Previously Amended" rather than "Currently Amended". Though Applicants consider the Examiner's objection to be unfounded, they have amended claim 4 above in the spirit of cooperation to further the examination of the subject application.

Claims 1-3, 6-8, and 11-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,370,588 B2, issued to Gebauer (hereinafter referred to as "Gebauer") in view of "what would have been obvious to a person of ordinary skill in the art at the time the invention was made". This ground of rejection is respectfully traversed as inconsistent with controlling law.

The general rule for the Examiner to present a *prima facie* case of obviousness is found in MPEP 2143, which requires the Examiner to present evidence of three factors: 1) motivation to make an alleged combination; 2) reasonable likelihood of success

of the alleged combination; and 3)all claimed elements shown by the alleged combination. The Examiner has admitted that he has made none of these showings. Therefore, he has failed of his basic obligation.

Specifically, with regard to claim 1, the Examiner admits that "Gebauer does not expressly disclose a plurality of protocols....". As a result, there is no need for Gebauer to have the claimed "generic gateway....[for] converting said plurality of protocols....", because Gebauer admittedly does not have the "plurality of protocols". One reading Gebauer would not be motivated to employ a "generic gateway" to convert a plurality of protocols, because there simply are no "plurality of protocols" to convert.

In a feeble attempt to suggest motivation, the Examiner states:

One of ordinary skill in the art would have been motivated to do this in order to create a more efficient system that can be used to process multiple protocols instead of needing separate systems to process each protocol.

This statement is both clearly erroneous and contrary to law. It is clearly erroneous, because given a system not having "multiple protocols" such as Gebauer, it would be superfluous to employ a "generic gateway" to convert a "plurality of protocols".

Furthermore, the statement is contrary to controlling law, because it refers to Applicants' claimed invention, rather than

the reference. The prior art is devoid of any protocols other than HTML. The "plurality of protocols" are only found in Applicants' claimed invention. To find motivation in accordance with the requirements of MPEP 2143, the Examiner must show motivation from the prior art, and not from the claimed invention.

The second requirement of MPEP 2143, reasonable likelihood of success, is not even addressed at all by the Examiner, notwithstanding his express obligation to do so.

As to the failure of Gebauer to disclose the claimed "generic gateway", the Examiner misstates controlling law. He paraphrases:

MPEP 2144.04-VI-B acknowledges that the duplication of parts in a system would only have required ordinary skill in the art.

MPEP 2144 actually provides in part:

The examiner must apply the law consistently to each application after considering all the relevant facts. If the facts in a prior legal decision are sufficiently similar to those in an application under examination, the examiner may use the rationale used by the court. If the applicant has demonstrated the criticality of a specific limitation, it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection. (Emphasis added)

The facts of *In re Harza*, cited in MPEP 2114.04-VI-B have nothing to do with the facts in the present application. Furthermore, the Examiner has cited no other case law. Therefore, the rejection is not appropriate as a matter of law.

In addition, MPEP 2144.04 states:

If the applicant has demonstrated the criticality of a specific limitation, it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection.

The "criticality" of the "generic gateway" limitations has already been established. The Examiner admits:

However, this feature [i.e., "generic gateway"] (which appears to define the invention) is not found in the independent claim being discussed.

Having admitted the criticality of the "generic gateway" limitation, the Examiner is required as a matter of law to refrain from relying on case law to support his rejection. The rejection is respectfully traversed.

Claims 1-3, 6-8, 11-13, and 16-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,845,2678, issued to Ronen (hereinafter referred to as "Ronen") in view of "what would have been obvious to a person of ordinary skill in the art at the time the invention was made". This ground of rejection is respectfully traversed for the following reasons.

As with the previous rejection in view of Gebauer, the Examiner admits that Ronen does not meet all of the limitations of the claims as required by MPEP 2143. The Examiner states:

Ronen has not expressly disclosed a "generic gateway".

Therefore, the rejection does not comply with MPEP 2143, as a matter of law. Yet, the Examiner clearly erroneously and without authority states:

However, Ronen includes a transaction server that provides the functionality of a "generic gateway". At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Ronen's transaction server as a generic gateway to translate the protocols of various requests.

Similar to Gebauer, Ronen has no "plurality of protocols". Therefore, it makes no sense to say that one would "utilize Ronen's transaction server as a generic gateway to translate protocols". The Examiner has again failed to present a *prima facie* case of obviousness as required by MPEP 2143. The rejection is respectfully traversed as a matter of law.

Claims 1-13 and 16-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,397,220 B1, issued to Deisinger et al (hereinafter referred to as "Deisinger") in view of U.S. Patent No. 6,453,356, issued to Sheard et al (hereinafter referred to as "Sheard"). This ground of rejection is respectfully traversed for the following reasons.

As with the prior rejections, the Examiner admits:

Deisinger has not expressly disclosed a singular generic gateway through which a plurality of protocols can be converted.

Again, the Examiner attempts to "fabricate" disclosure of a "generic gateway" where none exists. The Examiner states:

Sheard has taught a gateway that can both input and output a plurality of formats or protocols (Sheard abstract; figure 1; column 2, line 31-column 3, line 29; and column 4, line 48-column 6, line 34). (emphasis added)

This statement is clearly erroneous. Sheard says nothing of a "gateway". Sheard says nothing of "protocols".

Webopedia defines "gateway" as:

A node on a network that serves as an entrance to another network.

Sheard shows no network. Sheard clearly does not have a "gateway" and does not say that it does. Webopedia defines "protocol" as"

An agreed-upon format for transmitting data between two devices.

Sheard says nothing of "transmitting data between two devices". It is limited to discussions transferring data between applications. For the convenience of the Examiner, Webopedia defines "application" as:

A program or group of programs designed for end users.

Surely the Examiner can distinguish between the claimed transfer of data between "two devices" and the Sheard transfer of data between software "applications".

Sheard discloses a "Data Exchange System and Method"¹. The Abstract begins:

A system and method for exchanging data between two or more applications includes a data exchange engine and a number of

¹See title.

adapters associated with a corresponding number of applications. (Emphasis added)

The disclosure of Sheard is admittedly limited to the exchange of data between "applications" rather than conversion of a "plurality of protocols" by a "generic gateway".

Thus, the Examiner has cited and made rejections over at least four different references, none of which have the claimed "generic gateway". It seems quite clear that absent the Examiner's ability to cite some pertinent art in compliance with controlling law (i.e., MPEP 2143), he should allow the pending claims.

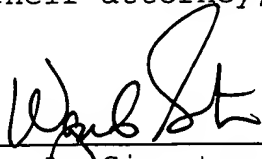
Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-20, being the only pending claims.

Respectfully submitted,

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By their attorney,

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